

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

-v.-

ORDER

GABRIEL WARREN,

16-CR-631-3 (CS)

Defendant.
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Seibel, J.

Before the Court is Defendant Gabriel Warren’s letter, (Doc. 349), which I have deemed to be motion for reconsideration, (Doc. 350), of my order denying a reduction of sentence under 18 U.S.C. § 3582(c)(1)(A), known as “compassionate release,” (Doc. 339), and the Government’s opposition thereto, (Doc. 354). Familiarity with my prior ruling, and with the standards governing motions under § 3582(c)(1)(A) – including the Second Circuit’s recent decision in *United States v. Brooker*, 976 F.3d 228 (2d Cir. 2020), which I apply here – is presumed.

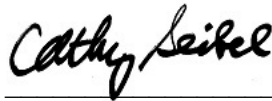
Because my initial ruling is on appeal, I lack jurisdiction to grant the relief sought, but I may deny it, defer ruling on it, or issue an indicative ruling that I would grant it if jurisdiction were returned to me or that it raises a substantial issue. Fed. R. Crim. P. 37(a). In this case I deny the motion.

Two things have changed since my last ruling. Defendant has served about three additional months. That does not change the calculus in my mind, as he has served only fifty-five months of his 188-month sentence (which sentence was already 74 months below the low end of his Sentencing Guidelines range). The other thing that has changed is that Defendant has tested positive for COVID-19. Fortunately, he had no risk factors for severe disease, remained

asymptomatic and has been released from quarantine. And now that he has contracted COVID-19 (suffering no ill effects, happily) a sentence reduction based on the risk of contracting it does not make sense. Further, even if it did, I continue to believe that the § 3553(a) factors militate strongly against release, for the reasons set forth in my previous decision.¹

Accordingly, the motion is denied. The Clerk of Court is respectfully directed to send a copy of this Order to Gabriel Warren, No. 77731-054, USP Allenwood, U.S. Penitentiary, P.O. Box 3000, White Deer, PA 17887.

Dated: December 9, 2020
White Plains, New York

A handwritten signature in black ink that reads "Cathy Seibel". The signature is written in a cursive, flowing style.

CATHY SEIBEL, U.S.D.J.

¹I note that the Government's opposition to the instant motion quotes from my original ruling, but then attributes to me statements that are not from my ruling, but rather are from the Government's opposition to the original motion. (*See* Doc. 354 at 4; *see also* Doc. 339 at 2-3; Doc. 337 at 7.)